

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PEGGY S. THOMPSON and DEPARTMENT OF DEFENSE,  
DEFENSE LOGISTICS AGENCY, Stockton, CA

*Docket No. 03-486; Submitted on the Record;  
Issued April 17, 2003*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has more than 12 percent permanent impairment of her right upper extremity, for which she received a schedule award.

This case has previously been before the Board on appeal. In its June 13, 2001 decision, the Board found that appellant was not entitled to receive compensation at the augmented rate as her grandfather was not a dependent within the meaning of the Federal Employees' Compensation Act.<sup>1</sup> The facts and the circumstances of the case as set forth in the Board's prior decision are adopted herein by reference.

Following the June 13, 2001 decision of the Board, the Office of Workers' Compensation Programs accepted appellant's claim for the additional condition of right trigger finger. Appellant requested a schedule award on June 14, 2002. By decision dated November 21, 2002, the Office granted appellant a schedule award for an additional two percent permanent impairment of her right upper extremity.<sup>2</sup>

The Board finds that appellant has no more than 12 percent permanent impairment of her right upper extremity, for which she received a schedule award.

The schedule award provisions of the Act<sup>3</sup> and its implementing regulation<sup>4</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not

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<sup>1</sup> Docket No. 00-2657.

<sup>2</sup> Appellant had previously received a schedule award for 10 percent permanent impairment of each of her upper extremities.

<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> 20 C.F.R. § 10.404 (1999).

specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

Dr. Mark Mason, a surgeon, examined appellant on September 6, 2002, to determine her permanent impairment due to stenosing tenosynovitis in her right middle, ring and little fingers. He stated that he would not consider appellant's bilateral carpal tunnel syndrome in his impairment rating calculations. Dr. Mason stated that appellant reached maximum medical improvement on August 20, 2002. He noted that she underwent trigger finger releases on her right long, ring and little fingers on March 21, 2002. He found that appellant had normal range of motion of her right middle and ring fingers. Dr. Mason stated that appellant had flexion deficits in all joints of the right little finger for a two percent impairment of the right upper extremity.

Specifically, Dr. Mason stated that appellant had an angle of 60 degrees of flexion of the distal interphalangeal for a 5 percent impairment of that joint;<sup>5</sup> 90 degrees of flexion of the proximal interphalangeal joint for 6 percent impairment of that joint<sup>6</sup> and 80 degrees of flexion of the metacarpophalangeal joint for 6 percent impairment of that joint.<sup>7</sup> He combined the values for loss of range of motion and concluded that appellant had 16 percent impairment to her little finger due to loss of range of motion.<sup>8</sup> Dr. Mason determined that 16 percent impairment to the little finger was 2 percent impairment to the hand<sup>9</sup> and 2 percent impairment of the right upper extremity.<sup>10</sup>

The district medical adviser reviewed Dr. Mason's report and agreed with his conclusions that the A.M.A., *Guides* established that appellant had an additional two percent permanent impairment of her right upper extremity due to loss of range of motion of her right little finger. He noted that Dr. Mason found that appellant had 10 degrees of extension of the metacarpophalangeal joint, a 3 percent impairment.<sup>11</sup> The district medical director combined this additional impairment to reach 19 percent impairment of the right little finger.<sup>12</sup> He properly found that from 15 to 24 percent impairment of the little finger converted to 2 percent

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<sup>5</sup> A.M.A., *Guides*, 461, Figure 16-21.

<sup>6</sup> *Id.* at 463, Figure 16-23.

<sup>7</sup> *Id.* at 464, Figure 16-25.

<sup>8</sup> *Id.* at 604.

<sup>9</sup> *Id.* at 438, Table 16-1.

<sup>10</sup> *Id.* at 439, Table 16-2.

<sup>11</sup> *Id.* at 464, Figure 16-25.

<sup>12</sup> *Id.* at 604.

impairment of the hand.<sup>13</sup> There is no medical evidence in the record establishing that appellant has more than an additional two percent impairment of her right hand due to trigger finger, for which she received a schedule award.<sup>14</sup> Accordingly, the Board finds that the medical evidence establishes that appellant has no more than a 12 percent permanent impairment of her right upper extremity.

The November 21, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
April 17, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>13</sup> *Id.* at 438, Table 16-1.

<sup>14</sup> The Board notes that appellant previously received a schedule award for 10 percent permanent impairment of her left upper extremity due to carpal tunnel syndrome and that she underwent surgery for trigger finger on her left hand as well. Dr. Mason also provided an additional impairment rating for appellant's left hand due to this condition. However, as the Office has not accepted appellant's claim for left trigger finger and has not addressed any permanent impairment due to this condition in a final decision, the Board may not address this issue on appeal. 20 C.F.R. § 501.2(c).